



February 28, 2014

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## ENGROSSED HOUSE BILL No. 1045

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DIGEST OF HB 1045 (Updated February 26, 2014 1:44 pm - DI 104)

**Citations Affected:** IC 25-23.5; IC 25-35.6.

**Synopsis:** Occupational therapy. Revises the definition of "practice of occupational therapy". Adds a definition of "occupational therapy services". Requires that an occupational therapist who performs an evaluation that suggests a condition that requires medical attention must promptly refer the patient to a physician. Sets forth requirements that must be met in order for an occupational therapist or a speech-language pathologist to assess and manage the pharyngoesophageal phase of swallowing. Requires that an occupational therapist must have a master's degree for initial licensure beginning July 1, 2006.

**Effective:** July 1, 2014.

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### Kirchhofer, Bacon, Riecken, Klinker

(SENATE SPONSOR — MILLER PATRICIA)

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January 7, 2014, read first time and referred to Committee on Public Health.  
January 23, 2014, amended, reported — Do Pass.  
January 27, 2014, read second time, ordered engrossed. Engrossed.  
January 29, 2014, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Health and Provider Services.  
February 27, 2014, amended, reported favorably — Do Pass.

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February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1045

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A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 25-23.5-1-5, AS AMENDED BY P.L.197-2007,  
2       SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2014]: Sec. 5. "Practice of occupational therapy" means the  
4       functional assessment of learning and performance skills and the  
5       analysis, selection, and adaptation of exercises or equipment for a  
6       person whose abilities to perform the requirements of daily living are  
7       threatened or impaired by physical injury or disease; mental illness; a  
8       developmental deficit; the aging process; or a learning disability. The  
9       term consists primarily of the following functions:  
10       (1) Planning and directing exercises and programs to improve  
11       sensory-integration and motor functioning at a level of  
12       performance neurologically appropriate for a person's stage of  
13       development.  
14       (2) Analyzing, selecting, and adapting functional exercises to  
15       achieve and maintain a person's optimal functioning in daily  
16       living tasks and to prevent further disability.

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therapeutic use of everyday life occupations and occupational therapy services to:

- (1) aid individuals or groups to participate in meaningful roles and situations in the home, school, the workplace, the community, or other settings;
- (2) promote health and wellness through research and practice; and
- (3) serve individuals or groups who are well but have been or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction.

The practice of occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect a person's health, well-being, and quality of life throughout the person's life span.

SECTION 2. IC 25-23.5-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6.5. "Occupational therapy services" means services that are provided to promote health and wellness, prevent disability, preserve functional capabilities, prevent barriers for occupational performance from occurring, and enable or improve performance in everyday activities, including services that do the following:

- (1) Establish, remediate, or restore a skill or ability that is impaired or not yet developed. Occupational therapy services include identifying speech, language, and hearing that are impaired or not yet developed, but does not include the remediation of speech, language, and hearing skills and abilities.
- (2) Modify or adapt a person or an activity or environment of a person or compensate for a loss of a person's functions.
- (3) Evaluate factors that affect daily living activities, instrumental activities of daily living, and other activities relating to work, play, leisure, education, and social participation. These factors may include body functions, body structure, habits, routines, role performance, behavior patterns, sensory motor skills, cognitive skills, communication and interaction skills, and cultural, physical, psychosocial, spiritual, developmental, environmental, and socioeconomic contexts and activities that affect performance.
- (4) Perform interventions and procedures relating to the



factors described in subdivision (3), including the following:

(A) Task analysis and therapeutic use of occupations, exercises, and activities.

(B) Education and training in self-care, self-management, home management, and community or work reintegration.

(C) Care coordination, case management, transition, and consultative services.

(D) Modification of environments and adaptation processes, including the application of ergonomic and safety principles.

(E) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices. However, this does not include the following:

(i) Gait training.

(ii) Training in the use of hearing aids, tracheoesophageal valves, speaking valves, or electrolarynx devices related to the oral production of language.

(iii) Remediation of speech, language, and hearing disorders.

(iv) Fabrication of shoe inserts.

(F) Assessment, recommendation, and training in techniques to enhance safety, functional mobility, and community mobility, including wheelchair management and mobility. However, this does not include gait training.

(G) Management of feeding, eating, and swallowing to enable eating and feeding performance.

(H) Application of physical agent modalities and use of a range of specific therapeutic procedures used in preparation for or concurrently with purposeful and occupation based activities, including techniques to enhance sensory-motor, perceptual, and cognitive processing, manual therapy techniques, and adjunctive and preparatory activities for occupational performance. However, manual therapy does not include spinal manipulation, spinal adjustment, or grade 5 mobilization.

SECTION 3. IC 25-23.5-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

#### **Chapter 4. Occupational Therapy Services and Referrals**

**Sec. 1. If an occupational therapist performs an evaluation and**



1 the evaluation suggests the possibility of a condition that requires  
 2 medical attention, the occupational therapist shall promptly refer  
 3 the patient to an individual licensed under IC 25-22.5.

4 **Sec. 2. (a) An occupational therapist may assess and manage the**  
 5 **pharyngoesophageal phase of swallowing, including instrumental**  
 6 **evaluations, only if the occupational therapist has done the**  
 7 **following:**

8 **(1) Obtained continuing competency specific to the assessment**  
 9 **and management of swallowing disorders.**

10 **(2) Demonstrated competencies specific to the evaluation and**  
 11 **management of pharyngoesophageal swallowing disorders**  
 12 **within the practitioner's service delivery setting and with the**  
 13 **specific populations through, at a minimum:**

14 **(A) professional development or similar advanced**  
 15 **training;**

16 **(B) successful passage of a written test; and**

17 **(C) demonstrated clinical skills and knowledge.**

18 **(b) The competencies required under subsection (a)(2) must be**  
 19 **annually reviewed and updated.**

20 SECTION 4. IC 25-23.5-5-1, AS AMENDED BY P.L.197-2011,  
 21 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2014]: Sec. 1. **(a)** A person who applies for a license as an  
 23 occupational therapist or an occupational therapy assistant must present  
 24 satisfactory evidence to the committee that the person:

25 **(1) does not have a conviction for a crime that has a direct bearing**  
 26 **on the person's ability to practice competently;**

27 **(2) has not been the subject of a disciplinary action by a licensing**  
 28 **or certification agency of another state or jurisdiction on the**  
 29 **grounds that the person was not able to practice as an**  
 30 **occupational therapist or occupational therapy assistant without**  
 31 **endangering the public;**

32 **(3) has:**

33 **(A) before July 1, 2006, graduated from a school or program**  
 34 **of occupational therapy or a program for occupational therapy**  
 35 **assistants approved by the board; and or**

36 **(B) after June 30, 2006, graduated:**

37 **(i) with a master's degree or its equivalent from a school**  
 38 **or program of occupational therapy; or**

39 **(ii) from a program for occupational therapy assistants;**  
 40 **approved by the board;**

41 **(4) has passed an occupational therapist or occupational therapy**  
 42 **assistant licensing examination approved by the board under**



1 section 4.5 of this chapter; and

2 **(5) has met the clinical experience requirements established**  
3 **by the board.**

4 **(b) Notwithstanding subsection (a), an occupational therapist**  
5 **who received an initial license in occupational therapy before July**  
6 **1, 2006, is not required to meet the requirements under subsection**  
7 **(a)(3)(B) or (a)(5).**

8 SECTION 5. IC 25-35.6-1-11 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2014]: **Sec. 11. A speech-language pathologist**  
11 **may assess and manage the pharyngoesophageal phase of**  
12 **swallowing, including instrumental evaluations, only if the**  
13 **speech-language pathologist has demonstrated competencies**  
14 **specific to the evaluation and management of pharyngoesophageal**  
15 **swallowing disorders through the successful passage of a written**  
16 **test.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1045, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 27, delete "Assessment and management" and insert **"Management"**.

Page 3, line 30, delete "procedures," and insert **"procedures used in preparation for or concurrently with purposeful and occupation based activities,"**.

Page 3, after line 36, begin a new paragraph and insert:

"SECTION 2. IC 25-23.5-3-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3. If an occupational therapist performs an evaluation and the evaluation suggests the possibility of a condition that requires medical attention, the occupational therapist promptly shall refer the patient to an individual licensed under IC 25-22.5.**

SECTION 3. IC 25-23.5-5-1, AS AMENDED BY P.L.197-2011, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. **(a)** A person who applies for a license as an occupational therapist or an occupational therapy assistant must present satisfactory evidence to the committee that the person:

- (1) does not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;
- (2) has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the person was not able to practice as an occupational therapist or occupational therapy assistant without endangering the public;
- (3) has:
  - (A) before July 1, 2006, graduated from a school or program of occupational therapy or a program for occupational therapy assistants approved by the board; and or**
  - (B) after June 30, 2006, graduated:**
    - (i) with a master's degree or its equivalent from a school or program of occupational therapy; or**
    - (ii) from a program for occupational therapy assistants; approved by the board;**
- (4) has passed an occupational therapist or occupational therapy assistant licensing examination approved by the board under





section 4.5 of this chapter; and

**(5) has met the clinical experience requirements established by the board.**

**(b) Notwithstanding subsection (a), an occupational therapist who received an initial license in occupational therapy before July 1, 2006, is not required to meet the requirements under subsection (a)(3)(B) or (a)(5)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1045 as introduced.)

CLERE, Chair

Committee Vote: yeas 10, nays 1.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1045, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 3. IC 25-23.5-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 4. Occupational Therapy Services and Referrals**

**Sec. 1. If an occupational therapist performs an evaluation and the evaluation suggests the possibility of a condition that requires medical attention, the occupational therapist shall promptly refer the patient to an individual licensed under IC 25-22.5.**

**Sec. 2. (a) An occupational therapist may assess and manage the pharyngoesophageal phase of swallowing, including instrumental evaluations, only if the occupational therapist has done the following:**

- (1) Obtained continuing competency specific to the assessment and management of swallowing disorders.**
- (2) Demonstrated competencies specific to the evaluation and management of pharyngoesophageal swallowing disorders within the practitioner's service delivery setting and with the**

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specific populations through, at a minimum:

- (A) professional development or similar advanced training;
- (B) successful passage of a written test; and
- (C) demonstrated clinical skills and knowledge.

(b) The competencies required under subsection (a)(2) must be annually reviewed and updated."

Page 4, delete lines 1 through 2.

Page 4, after line 32, begin a new paragraph and insert:

"SECTION 5. IC 25-35.6-1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 11. A speech-language pathologist may assess and manage the pharyngoesophageal phase of swallowing, including instrumental evaluations, only if the speech-language pathologist has demonstrated competencies specific to the evaluation and management of pharyngoesophageal swallowing disorders through the successful passage of a written test.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1045 as printed January 24, 2014.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0.

